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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3619

11 **AIMEE NATALIE ARTZ**
12 **448 Granite Hills Street**
13 **Simi Valley, CA 93065**
14 **Pharmacy Technician Registration No. TCH**
36226

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about March 30, 2001, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 36226 to Aimee Natalie Artz (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on November 30, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 490 of the Code states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board, Registrar or Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

6. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or

1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

3

4 "(j) The violation of any of the statutes of this state, or any other state, or of the United
5 States regulating controlled substances and dangerous drugs.

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7 "(l) The conviction of a crime substantially related to the qualifications, functions, and
8 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
9 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
10 substances or of a violation of the statutes of this state regulating controlled substances or
11 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
12 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
13 The board may inquire into the circumstances surrounding the commission of the crime, in order
14 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
15 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
16 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
17 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
18 of this provision. The board may take action when the time for appeal has elapsed, or the
19 judgment of conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
21 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
22 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
23 indictment.

24 **REGULATORY PROVISIONS**

25 7. California Code of Regulations, title 16, section 1770, states:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **COST RECOVERY**

5 8. Section 125.3 of the Code provides, in pertinent part, that the Board, Registrar or
6 Director may request the administrative law judge to direct a licensee found to have committed a
7 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
8 investigation and enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Substantially Related Conviction)**

11 9. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
12 (I), of the Code, in conjunction with California Code of Regulation, title 16, section 1770, in that
13 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
14 of a licensed pharmacy technician, as follows:

15 a. On or about October 9, 2009, after pleading guilty, Respondent was convicted of one
16 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving with a
17 blood-alcohol content level greater than or equal to .08%], and one felony count of violating
18 Health and Safety Code section 11350, subdivision (a) [possession of a controlled substance], in
19 the criminal proceeding entitled *People of the State of California v. Aimee Natalie Artz* (Super.
20 Ct. Ventura County, 2009, No. 2009009632). Respondent was sentenced to 48 hours in jail with
21 credit for 48 hours actual time served, ordered to pay fine and placed on formal probation for a
22 period of 3 years with terms and conditions.

23 b. The circumstances surrounding the conviction are that on or about March 14, 2009, a
24 California Highway Patrol officer conducted an enforcement stop of Respondent's vehicle. As
25 the officer made contact with Respondent, he could smell the odor of an alcoholic beverage
26 emitting from the vehicle. Respondent admitted to the officers that she had consumed an
27 alcoholic beverage earlier that evening. While speaking to Respondent, the officer noticed that
28 her eyes were red and watery. In addition, Respondent was unable to satisfactorily perform the

1 Field Sobriety Tests as they had been demonstrated to her. Respondent submitted to breath tests
2 which yielded results of 0.10% and 0.10% respectively. During an inventory search of
3 Respondent's vehicle, one of the officers located two small baggies and a small glass vial
4 containing a white powdery substance inside of a fanny pack that contained a credit card and
5 AAA card with Respondent's name on them. A Drug Recognition officer responded to the scene
6 to assist. Based on his training and experience, he determined that the white powdery substance
7 was cocaine.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Dangerous Use of Alcohol)**

10 10. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the
11 Code in that she used dangerous drugs or alcoholic beverages to the extent or in a manner as to be
12 dangerous or injurious to herself or to the public. Complainant refers to, and by this reference
13 incorporates, the allegations set forth in paragraph 9, subparagraphs (a) and (b), as though set forth
14 fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violation of Statute Regulating Controlled Substances)**

17 11. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
18 Code in that she violated statutes of this state regulating controlled substances and dangerous
19 drugs. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraph
20 9, subparagraphs (a) and (b), as though set forth fully.

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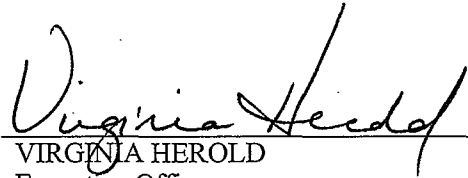
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 36226, issued to Aimee Natalie Artz;
2. Ordering Aimee Natalie Artz to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/28/11



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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